

**REMARKS**

Entry of the present amendment and reconsideration of the claims is respectfully requested.

**I. Status of the Claims**

Claim 21 has been added.

Claims 1-21 are pending in the application.

New claim 21 does not add new matter.

**II. Rejections Under 35 U.S.C. § 103(a)**

Claims 1-7 and 10-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,056,786 to Rivera et al. (hereinafter “Rivera”) in view of U.S. Patent No. 6,009,401 to Horstmann. Applicants note an inconsistency between the preamble of the rejection and the detailed explanation by the Examiner and Applicants have proceeded under the presumption that Horstmann is the secondary reference cited by the Examiner. Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rivera in view of Horstmann and further in view of U.S. Patent No. 5,023,907 to Johnson et al. (“Johnson”).

The Examiner contends that Rivera discloses the entire invention except transmitting a license to a user; disseminating the content with the license; and creating a license for one or many pieces of content. The Examiner further contends that Horstmann discloses transmitting the license file and that Johnson discloses creating a license file for one or many pieces of content.

Applicants respectfully traverse the above rejections. Horstmann, and Johnson, alone or in combination, do not teach or suggest all of the features of the claimed invention.

Regarding claims 1, 10, 19, and 20, claims 1 and 19 recite the step of “transmitting the requested content item from a provider system to the user”; claim 10 recites “ a communication

server ... to communicate said content items to said user”; and claim 20 recites the instruction to “transmit the requested content item from a provider system to the user.” Applicants submit that Rivera does not teach or suggest transmitting the requested content item from a provider system to the user, as set forth in the claims above.

Rivera’s invention is “[a] technique for determining the number of users or client computers which transact with a server program during a given period of time.” Rivera, Abstract and *see e.g.*, column 6, lines 42-45. Content is not transmitted during the monitoring process because Rivera only discloses transmitting the licensing monitoring software itself, not content separate from the licensing monitoring software. *See*, Rivera, column 5, lines 52-65. Rivera states that the “[s]oftware programming code which embodies the present invention ... may be distributed.” Rivera, column 5, lines 52-62.

Rivera does not teach or suggest tracking the distribution of content. Rivera only tracks the number of users accessing a single program at a given time and determines if the number of users accessing the program exceeds the number of allowed users. Rivera’s invention utilizes the audit log to determine the number of unique client entities that initiated transactions with the server program during a particular time interval ... [by counting] the number of users transacting with the server program ... for a number of time intervals during a time period.

Rivera, column 6, lines 42-54 and *also see*, Figures 3, 4 and 5). Thus, Rivera does not teach or suggest the distribution of content as recited by the claims.

Further, claims 1, 19 and 20 recite the element of “transparently transmitting the license file to the user” and Horstmann does not teach or suggest this element of the claims. Horstmann discloses transmitting a license file, but does not teach or suggest transmitting the license file “transparently,” i.e. without the user’s knowledge. The Specification clearly states that the

license files are “sent to the user’s computer without notifying the user.” Specification, page 8, lines 7-8.

Horstmann specifically teaches transmitting license files with the user’s knowledge. Horstmann’s “license certificate is preferably backed up by the end user onto a floppy disk or other permanent storage medium ... [and] in an emergency, it may be retrieved from the clearinghouse or merchant.” Horstmann, column 3, line 67 to column 4, line 6. Since a user must create the back up or initiate the request for the license certificate, the user must have knowledge of the license file and thus the license certificate is never “transparently transmitted” to the user. Thus, Horstmann does not teach or disclose the transparent transmission of the license file as recited by the claims.

Claims 2-9, and 11-18 depend from claims 1 and 10 respectively, and recite over the art of record based on their own recitation and their dependency from the independent claims. Thus, Applicants respectfully request that the above rejections be withdrawn.


**CONCLUSION**

In view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved by either a Supplemental Response or a Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By 

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